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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/707,502	12/18/2003	Allan McLane	718395.57	1501

27128 7590 12/17/2004

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EXAMINER

FOX, JOHN C

ART UNIT PAPER NUMBER

3753

DATE MAILED: 12/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/707,502	Applicant(s) MCLANE ET AL. <i>on</i>	
	Examiner John Fox	Art Unit 3753	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 November 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 14 and 15 is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

This action is responsive to the communication filed November 8, 2004.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1, 4, 6, 8, and 10 are rejected under 35 U.S.C. 102(e) as being anticipated by Lehmann (6,164,248) of record.

Two planes as recited can be constructed.

Applicant's remarks have been fully considered but are not deemed to be persuasive. While Lehmann does not show a plurality of bores to create the passages, it is fair to describe the flow path of fluid from inlet 4 to outlet 13 as a passage and the flow path of fluid from inlet 4 to outlet 15 as a different passage. Lehmann fully responds to the functional claim recitation "to provide fluid communication between the inlet port and at least one of the first outlet port, the second outlet port and the third outlet port" and it is reasonable to describe the structure which accomplishes that as passages.

The propriety of the rejection is illustrated by considering what is being described by the claim language. Bore 58 of the instant valve is common to more than one passage. By analogy, the interior of the rotor of Lehmann is common to more than one passage.

Claims 2-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lehmann '248 in view of Inoue et al.

Lehman teaches the claimed invention except for the sensors. Inoue et al show a heater control valve with temperature and other sensors for controlling the valve through a processor. It would have been obvious for one of ordinary skill in the art at the time

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the invention was made to used such sensors in the system of Lehmann to similarly control the valve.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lehmann '248. Electric water pumps in engines are notoriously well known. It would have been obvious for one of ordinary skill in the art at the time the invention was made to have used an electric water pump with the system of Lehmann.

Applicant's remarks have been fully considered but are not deemed to be persuasive. Motivation to modify a reference may be found merely by knowledge common in the art. A routineer in this art would readily recognize that pump 8 of Lehmann could be a mechanical or electric pump.

Claim 9 is rejected under 35 U.S.C. 102(b) as being anticipated by Kurr et al (5,529,026) of record. Kurr et al show a valve as claimed with seals 10 around the ports.

The remarks made above regarding Lehmann apply equally to Kurr et al.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lehmann '248 in view of Zajac et al.

Lehmann shows the claimed invention except for the biasing mechanism. Zajac et al show a bypass valve with a biasing spring so the valve fails to a safe position. It would have been obvious for one of ordinary skill in the art at the time the invention was made to have used such a biasing spring in the valve of Lehmann to similarly provide for failsafe operation.

Claims 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lehmann in view of Inoue et al as applied above and further in view of Zajac et al. It

would have been obvious for one of ordinary skill in the art at the time the invention was made to have used such a biasing spring in the valve of Lehmann to similarly provide for failsafe operation.

Claims 14-15 are allowed.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Fox whose telephone number is 571-272-4912. The examiner can normally be reached on Increased Flextime.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Mancene can be reached on 571-272-4930. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



John Fox
Primary Examiner
Art Unit 3753